

**IN THE UNITED STATES DISTRICT COURT FOR THE SOUTHERN
DISTRICT OF WEST VIRGINIA
AT BECKLEY**

AMANDA ALDERSON,

Plaintiff,

v.

**CIVIL ACTION NO.: 5:16-cv-07555
CIRCUIT COURT NO.: 16-C-67**

**ESSEL REALTY, INC. d/b/a
RIVERSIDE FOOD MART and
DHARMENDRA PATADIYA , a/k/a
DHARMENDRAKUMAR PATADIYA**

Defendants.

NOTICE OF REMOVAL

NOW COME the Defendants, Essel Realty Inc. d/b/a Riverside Food Mart, and Dharmendra Patadiya a/k/a Dharmendrakumar Patadiya, by and through their counsel, Johnnie E. Brown, and the law firm of Pullin, Fowler, Flanagan, Brown & Poe, PLLC, and pursuant to 28 U.S.C. § 1332, 1441, and 1446, said Defendants hereby give notice that, on the grounds set forth below, they are removing the above styled action from the Circuit Court of Greenbrier County, West Virginia to the United States District Court for the Southern District of West Virginia at Beckley. In support thereof, Defendants state and aver as follows:

1. This civil action was commenced by Plaintiff, Amanda Alderson, against the Defendants, Essel Realty Inc. d/b/a Riverside Food Mart, and Dharmendra Patadiya a/k/a Dharmendrakumar Patadiya, on or about April 1, 2016. Plaintiff filed her Complaint in the Circuit Court of Greenbrier County, West Virginia. The matter was designated Civil Action 16-C-67 by the Circuit Court of Greenbrier County. *See Plaintiff's Complaint* attached hereto as **Exhibit 1.**

2. Service upon Defendants was made via the West Virginia Secretary of State on July 12, 2016. See *Summons* attached hereto as **Exhibit 2**. See *Proof of Service from the West Virginia Secretary of State* attached hereto as **Exhibit 3**.

3. In accordance with 28 U.S.C. § 1446(a), Defendants state that the only process, pleadings, or orders in this matter are the summons and complaint. See **Exhibit 1**; **Exhibit 2**; and Docket Sheet attached hereto as **Exhibit 4**.

4. This Notice of Removal is being filed within (30) days after the Defendants were served with a Complaint which is removable to the United States District Court for the Southern District of West Virginia, at Beckley.

5. According to her Complaint, Plaintiff asserts three (3) counts against Defendants: (1) Wage Payment and Collection Act; (2) Breach of Contract; and (3) Breach of Promise/Fraudulent Inducement.

6. This Court has diversity jurisdiction over this action under 28 U.S.C. § 1332, and this action is removable to this Court on that basis, as well as 28 U.S.C. § 1441(a). There is complete diversity of citizenship in this action, and the amount in controversy is equal to or greater than \$75,000, exclusive of interest and costs upon information and belief.

(a) With regard to the amount in controversy, Plaintiff does not state a specific amount of damages or agree to cap her damages at an amount less than \$75,000. Plaintiff essentially admits that a jury verdict could exceed \$75,000 as Plaintiff is requesting the following damages: (1) All damages as allowed under West Virginia law, including punitive damages; (2) treble damages; (3) attorneys' fees and costs; and (4) such other relief as is just and proper. See **Exhibit 1**.

(b) According to the Complaint, Plaintiff is a citizen and resident of Monroe County, West Virginia. (Complaint ¶ 1). Therefore, for purposes of 28 U.S.C. §§1332 and 1441, Plaintiff is domiciled in the State of West Virginia and is a citizen of the State of West Virginia.

(c) Defendant Essel Realty, Inc., d/b/a Riverside Food Mart, is a corporation authorized and existing under the laws of the State of Virginia.

(d) Defendant Dharmendra Patadiya, Jr. is a citizen and resident of Roanoke County, Virginia.

(e) Therefore, there is complete diversity between Plaintiff and all Defendants.

7. Pursuant to 28 U.S.C. § 1441(a), any civil action brought in a State of which the district courts of the United States have jurisdiction may be removed by the Defendants(s) to the district court of the United States for the district and division embracing where such action is pending.

8. That pursuant to 28 U.S.C. § 1391, venue is proper in the Southern District of West Virginia because a substantial part of the events or omissions giving rise to the claims contained in the Complaint allegedly occurred in this district.

9. Removal of this action to this Court is also proper pursuant to 28 U.S.C. § 1446(b)(2)(A) as all Defendants have consented to removal. Specifically, the Defendants are represented by the undersigned and consent to removal.

10. Pursuant to 28 U.S.C. § 1446(d) Essel Realty Inc. d/b/a Riverside Food Mart, and Dharmendra Patadiya a/k/a Dharmendrakumar Patadiya are concurrently serving on Plaintiff and

also filing in the Circuit Court of Greenbrier County, West Virginia, a “Notice of Filing of Notice of Removal” a copy of which is attached hereto as **Exhibit 5**.

11. That the removal of the above-captioned civil action from the Circuit Court of Greenbrier County to the United States District Court for the Southern District of West Virginia, at Beckley, is proper.

WHEREFORE, Defendants pray that the service and the filing in this Honorable Court of this Notice of Removal, and also the service upon the Plaintiff and the filing in the Circuit Court of Greenbrier County, West Virginia, a “Notice of Filing of Notice of Removal” (which includes an attached copy of this Notice of Removal) shall effect the removal of this action from the Circuit Court of Greenbrier County, West Virginia, to the United States District Court for the Southern District of West Virginia.

**ESSEL REALTY INC. d/b/a
RIVERSIDE FOOD MART and
DHARMENDRA PATADIYA, a/k/a
DHARMENDRA KUMAR PATADIYA,
By Counsel,**

/s/ Johnnie E. Brown

Johnnie E. Brown, WV State Bar No. 4620

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Defendants.

CERTIFICATE OF SERVICE

The undersigned, counsel of record for Defendants, Essel Realty Inc. d/b/a Riverside Food Mart, and Dharmendra Patadiya a/k/a Dharmendrakumar Patadiya, does hereby certify on this 11th day of August, 2016, that a true copy of the foregoing "*Notice of Removal*" served upon opposing counsel by electronically filing the same with the Clerk of the Court using CM/ECF system, which will send notification of such filing to:

Paul M. Stroebel, Esquire
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Counsel for Plaintiff

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Counsel for Plaintiff

/s/ Johnnie E. Brown
Johnnie E. Brown, WV State Bar No. 4620

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